

1964

concern to me and to others that perhaps further violence and unrest will be in store for us as additional tests of the act are made.

A great many distinguished lawyers hold sections of the law to be unconstitutional. These points will ultimately be contested in the Supreme Court. Until the Court announces its decision, I hope that law and order will prevail, and I feel sure it will with men of the caliber of Olin White and others lending their expressions to this troublesome question.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter written by Mr. Olin White, president of the Tennessee Bar Association, to the Secretary of Commerce, dated July 21, 1964.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TENNESSEE BAR ASSOCIATION,
Nashville, Tenn., July 21, 1964.

Hon. LUTHER H. HODGES,
Secretary of Commerce,
Washington, D.C.

DEAR MR. HODGES: Your letter of June 30, 1964, addressed to the president of the Tennessee Bar Association, has been referred to me as I became president of the Tennessee Bar Association on June 13, 1964.

The lawyers of this State will discharge their duties in the highest tradition of their profession, and will contribute to the preservation of peace and order under liberty and justice to all.

However, let me also assure you that I do not believe the lawyers of this State will hesitate to attack any law in court when they believe it to be unconstitutional merely because there have been quotes of approval as cited in your letter by the President of the United States.

I am reminded that although I have been an officer of this association for several years and prior thereto served as an officer of my local bar association, I have never before seen any letter from you disapproving the numerous violations of the law and invasion of private property, some directly effecting "commerce" that have occurred in this country during the past few years. The question keeps recurring to me—was there no duty on those in high places to speak out during such violations of the law in recent years?

"Many thoughtful Americans have become so disturbed, by a series of recent happenings, and the apparent approval of them in high places, that they question whether any moral values can any longer safely be regarded as immutable.

"As evidences of what they see as sharp departures from fundamental moral values, they point to various recent flaunts of law and order, and the apparent approval of them in high places, including, among others: (1) Mass demonstrations, including sit-ins and lie-downs on private property and public ways, and the public endorsement and approval of that conduct by high officials, which, although denominated 'peaceful' or 'nonviolent,' in many cases constituted common trespasses and disturbances of the private and public peace, and led—as many thought it inevitably would—to open violence; (2) the fact that one of the leaders who was most active and successful in inciting his groups thus to take the law in their own hands—and who, now that their conduct has led to widespread violence, attempts to excuse his responsibility for it with the doubtless true statement, 'I cannot control them (an excuse quite reminiscent of the one given by the man who lighted the squib and threw it into the crowd)—was recently publicly honored—some say rewarded—by an old and highly respected

American university through its conference upon him of an honorary degree—not in some new political science but in law; and finally (3) they point out that Federal authorities have not only failed to punish such trespasses and violence but, instead, have frequently restrained local authorities from doing so, with the result that generally those offenses are not now punished at all.

"Although I lament the apparent loss of faith by those critics in the good sense and fundamental virtues of the great majority of American people, especially in times of stress that call for faith and courage, I cannot deny that the recited events have occurred; and, because they purport so plainly to substitute for the rule of law the rule of force, which is anarchy, I feel a duty to my country, to my fellow men—to the involved minorities no less than others—to speak out in protest, and also to plead, I hope both temperately and seemly, for the preservation of the peace and good order of our land, and of the majesty and dominance of its laws, by the prompt, impartial and vigorous prosecution and punishment, under those laws, of all conduct that violates those laws. Surely no responsible American would contend that we should allow our country to become lawless without invoking its laws, nor that their prompt, impartial, and vigorous invocation will not restore and keep, as always in the past, the public peace."

The three paragraphs shown immediately above this express my thoughts and the thoughts of many lawyers that I have talked to far better than I could express them, and these paragraphs are quoted from a speech of the Honorable Charles E. Whitaker, Associate Justice of the Supreme Court of the United States (retired) made on July 3, 1964, in Houston, Tex., where I attended the Texas Bar Association convention as a guest of the Texas bar.

Three Justices of the Supreme Court said only a few weeks ago, without a single dissenting voice on the point:

"Whatever power it may allow the States or grant to the Congress to regulate the use of private property, the Constitution does not confer upon any group the right to substitute rule by force for the rule of law. Force leads to violence, violence to mob conflicts, and these to rule by the strongest groups with control of the most deadly weapons."

If our National Government did not approve the unlawful acts mentioned above they certainly overlooked them, and in many instances whatever was said from Washington could as easily have been interpreted as approving of the same. This, therefore, compels me to view with some amazement the repeated quotes in your letter and the long sheet attached thereto dated "June 19, 1964—For Immediate Release—Office of the White House Press Secretary," purporting to be further statements from the President of the United States.

The thought, therefore, crosses my mind as to why the Secretary of Commerce has heretofore shown no interest in the enforcement of the law such as is shown in your letter of June 30, 1964. If there was such a letter circulated condemning such acts and calling upon all persons of good will of all colors to respect the law, then I have failed to see the same.

It seems quite true that in some sections of the country for the past few years soldiers, sailors, and FBI members were readily dispatched by those in high places but only to a restricted area of the country. For several months now violence has been so great in other parts of the country, including subways, Times Square, and other areas as to dwarf the violence for which the Armed Forces were previously used and as of July 21, 1964, there seems to be no change in this thinking on the part of those in high places.

There must be changes in the society as this country grows, but these changes must

be made under law, and there must not be apparent approval of violation of the law by one group and massive control or indignant speeches made because of the violations of law by another group. All people should obey the law, all people should attain their rights, only under law.

Not only have people in high places given apparent approval of the lawlessness described on page 2 of this letter, but the news media has glamorized at times such violations and has certainly shown a lack of enthusiasm for condemning these violations of the law that have been occurring in the past.

However, now that the whipping boy of the Nation, the South, is not the only one effected by these violations, I predict that there will be a different view expressed by the vast majority of the news media, and it will be interesting to note how the TV and the other news media handle this transition.

It would have been far easier for me to have written you the usual letter of generalities and compliments in answer to your letter and I could have done so without any risk of criticism from you, if indeed this letter ever reaches you through what must be a very large department that you have the honor to head.

Respectfully,

OLIN WHITE,
President.

THE ASSATEAGUE ISLAND NATIONAL SEASHORE

Mr. BREWSTER. Mr. President, I yesterday joined Senator BEALL, Representatives SICKLES, LONG of Maryland, and MORTON, and Secretary of the Interior Udall, in urging favorable action by the Public Lands Subcommittee of the Interior Committee on S. 2128, to establish the Assateague Island National Seashore. During the hearing, the distinguished chairman of the subcommittee, the Senator from Nevada [Mr. BIBLE] revealed that his committee will visit Assateague early next year.

Mr. President, I look forward to welcoming the committee and any other Senators to Assateague Island on Maryland's beautiful eastern shore. The public wants and supports legislation to insure that the beauty of Assateague will not be sacrificed to the rising tides of commercial development which now threaten to scar the island forever.

Mr. President, reflecting the wide public support for S. 2128, several newspapers have commented strongly and favorably on this legislation. I now ask that an editorial from this morning's Baltimore Sun be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Aug. 12, 1964]

FIRST FOR ASSATEAGUE

The length of Assateague Island ranges from 33 to 37 miles in various accounts of the proposal to make it a national seashore, which serves as well as anything to support the scientific description of Assateague as a "dynamic" reef which changes shape as wind and waves shift its sand from one place to another. But if it can be accepted for the moment that the federally owned portion of the island in Virginia is 13 miles long, and the Maryland State park portion is about 2 miles long, that leaves roughly 22 miles within Maryland which are in private hands and must be acquired.

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CONGRESSIONAL RECORD — SENATE

August 12

While Secretary of the Interior Udall's acquisition figure of nearly \$17 million (including most of the cost of two bridges) at first glance appears high, it does not seem so high when one appreciates that it represents a cost of less than \$1 million a mile for prime ocean beach which lies within a day's drive of some 34 million beach-hungry urban Americans.

Some idea of both the length and varying width of Assateague also is helpful in weighing the proposal to lease 600 acres in the future for eating places and overnight accommodations. This many acres at the Maryland end would take about a 2-mile stretch of the island, which would not take too much away from the natural beauty of the place when measured against the island's 33-37 mile length. But before anything can be built, the "dynamic" sand bar must first be placed in public hands and stabilized with protective barriers to the action of wind and waves. The first step—public acquisition—is what the Senate hearings are now about.

A NEW IMMIGRATION POLICY

Mr. JAVITS. Mr. President, as one of a number of Members who have consistently sought a complete overhaul of outdated immigration quota system, I introduced, on Monday of this week, a bill designed to salvage at least some progress in this field during a session which appears about to end with no progress at all in it.

An editorial published yesterday in the New York Times indicates just how important some progress in this regard would be. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 11, 1964]

A NEW IMMIGRATION POLICY

The United States will not fully have mounted its war against discrimination until it revises its unfair immigration law.

Immigration quotas are now assigned to each country on the basis of the national origin of this country's population as of 1920. This system was designed quite deliberately to give preference to immigration from northern Europe. But immigration from this area is never large enough to fill the assigned quotas. Since the vacancies cannot be transferred, the real effect of the system is to cut down immigration far below the authorized total and to shut the doors to many people from less favored lands.

As Attorney General Kennedy told Congress recently, this system is a source of global embarrassment to the United States. Other nations—especially those who citizens are discriminated against—reject and resent the implication that they belong to "lesser breeds." Our rules keep our many scientists and others with special skills, talents, and attainments in this country needs. And they separate thousands of families of American citizens with close kin abroad.

This is, in short, a system that should be abolished, and President Johnson, like President Kennedy before him, is sponsoring a program to abolish it. There is no intention of raising the immigration total above the 165,000 a year now authorized—a small enough number for a nation approaching 200 million in population. And immigration from any one country would be limited to 10 percent of the authorized total. But the national origin quotas would be abrogated gradually over a 5-year period during which unfilled quota numbers would be redistributed to countries wanting and needing them. The Congress should say yes before adjournment.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK—THE PRESIDENT'S ADDRESS

Mr. JAVITS. Mr. President, one of the finest services performed by the organized bar is the preparation of reports on national issues which have technical, legal ramifications. In New York, three bar groups are particularly active in this regard: the Association of the Bar of the City of New York, the New York County Lawyers Association, and the New York State Bar Association. Many times in debate, I have relied on the workmanlike analyses prepared by the members of their various committees—often prepared with the expenditure, in the public interest, of considerable amounts of valuable time and talent.

The effort and tradition involved in this public service are well described in a recent address delivered by Judge Samuel I. Rosenman, former adviser to two Presidents of the United States, and a distinguished New York lawyer, upon his becoming president of the Association of the Bar of the City of New York, and when honoring Mr. Justice Harlan with honorary membership in the association. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. Justice Harlan, President Brownell, members of the association. Certainly, Mr. President, as the members of the association and our invited guests see you lay down the burdens of your office tonight, and as I try to take them on, they must be convinced that this is really a nonpartisan organization—or at least fully bipartisan. I am sure we shall always keep it so.

You and I Mr. President have shared during our lifetime many public interests in different branches of our State and National governments. Because of greater years, I preceded you in point of time in some of them. It was easier, I assure you, to precede you, than it is going to be to follow you, as I do tonight. I have watched with amazement and admiration, the labor and energy which you have plowed into this office, and the rich harvest of accomplishments which the association has gathered from them. The association, and the bar in general, are richer by reason of your tenure of office.

When I realize that in this same kind of company, and in this same kind of meeting, there have stood so many illustrious men whom the New York Bar of an earlier day chose for leadership—Evarts, Choate, Root, Hughes, Burlingham, Davis, Stimson, and a host of others, and when I recall those leaders who are still with us, with whom I have served, and who have maintained in our own time the national prestige and preeminence of our association—Tweed, Seymour, Webster, Klotz, Loeb, Bonsal, Marden, Brownell—I must feel that the officer of president of this association is the peak of one's career in the practice of the law. For that distinction I am grateful to you here, and to all the members of the association.

This evening will be even more memorable to me because it is shared with our circuit Justice, John Harlan. He once worked with us in his genial, brilliant and modest way in this house. It was my privilege to meet him first some 25 years ago—when I was on the bench, and he was one of the eminent members of the New York bar. Not many of you here are old enough to remember, as he and I do, the good old days of Richard Knight, Esq., of the trenchant pen and devastating prose, who never liked anything better than publicly attacking, in the most pic-

turesque and sometimes unprintable language, any lawyer who opposed him, or any judge who ruled against him, even on an adjournment. When publicity failed him, he would stand on his head at the opening nights of the Metropolitan Opera. He has now gone from our midst; but Justice Harlan as his opponent, and I as the poor judge presiding, shared his virulence together—as did all the judges of the appellate division of both our departments. The Justice and I have since had many a good laugh together in retrospect over those more exciting days.

But tonight, Mr. Justice, we share a more pleasant professional experience for you have become one of a very limited and highly distinguished company of honorary members—only 33 in our 94 years of history. The list has on it such names as Reading, Birkenhead, William Howard Taft, Benjamin Cardozo, Smuts, Shawcross, Hughes, Stone, Franklin D. Roosevelt, Dag Hammarskjöld and Chief Justice Warren. You are among the few even of this select group, who have been chosen by lawyers who actively practiced with you and against you in this city, who know all about your professional past, and who now rejoice in the luster of your professional present—on a great Court where you serve the Nation so well. I feel that it is a happy beginning for a new administration in this house, that it starts out with an old friend of so many of us here—in a new and richly deserved distinction.

Let me say a word of gratitude to another old friend of all of us who is really the founder, the Evarts of our modern association—a man who brought to the seriousness and dedicated work of our association its present-day atmosphere of sociability and pleasantness, who believed, and has proved, that committee deliberations and bar association activities could be helped by an occasional drink; and who abolished whatever was left of the stuffed shirt and the high hat in the corridors of this building, and, what's more important, in its deliberations, attitudes, and decisions—our old friend Harry Tweed. It was during his leadership, that the association embarked on so many of the projects which have given it its present high prestige and reputation.

It was he who welcomed me so generously in this building when I returned to it after some 15 years absence on the bench and in Washington, and who drew me into its activities; and it was he who was chairman of the nominating committee this year. Perhaps, when I shall have spent many hours every day at hard labor in my new job, I shall think less kindly of him, and of his committeemen, than I do tonight.

I would face my new tasks with even more apprehension than I do, if it were not that I shall continue to have the help and guidance of Paul De Witt—who for almost 20 years has been so stout a support for all the presidents and committees of this association.

We look back on a long history in this association—almost a century. It was marshalled into being at a time of great crisis in the administration of justice in this city—a time of corruption, and of a dictatorship of politicians imposed upon its judges, a time when the bar itself seemed to have yielded up all its leadership, and to have surrendered to the evils of the day. It was the eloquent call by Samuel J. Tilden to the lawyers of the city to organize and fight, in words now engraved on the front of this lectern, which restored our New York bar "to the dignity and honor which it once possessed."

From those desperate days of 1870 we lawyers as individuals have come a long way. So have our judges. So has the organized bar. And so has the administration of justice.

The first house of this association was used by 600 members. Now 8,000 use this house. It started its work with only four